

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

VINCENT CORDOVA, SR.,

Plaintiff,

Case No. 3:16-cv-00335-MMD-VPC

v.

ABIGAIL BIGGAR, *et al.*,

Defendants.

ORDER ADOPTING AND ACCEPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
VALERIE P. COOKE

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (“R&R”) (ECF No. 22) relating to defendants’ motion to dismiss (ECF No. 15). Plaintiff had until June 19, 2017, to file an objection. To date, no objection to the R&R has been filed.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a *de novo* determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge’s report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to

1 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
2 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
3 view that district courts are not required to review "any issue that is not the subject of an
4 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
5 the court may accept the R&R without review. See, e.g., *Johnstone*, 263 F. Supp. 2d at
6 1226 (accepting, without review, a magistrate judge's recommendation to which no
7 objection was filed).

8 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
9 determine whether to adopt Magistrate Judge Cooke's R&R. Defendants seek dismissal
10 of Plaintiff's two claims for use of excessive force based on the expiration of the two year
11 statute of limitations. (ECF No. 15.) The Magistrate Judge agrees with defendants that
12 Plaintiff's claims are time barred and accordingly recommends dismissal of the
13 Complaint. (ECF No. 22.) Upon reviewing the R&R and filings in this case, the Court
14 agrees with the Magistrate Judge's finding and will adopt the R&R in full.

15 It is therefore ordered, adjudged and decreed that the R&R of Magistrate Judge
16 Valerie P. Cooke (ECF No. 22) is accepted and adopted in its entirety.

17 It is further ordered that defendants' motion to dismiss (ECF No. 15) is granted.

18 It is further ordered that the Clerk enter judgment in accordance with this Order
19 and close this case.

20 DATED THIS 27th day of June 2017.



21
22
23 MIRANDA M. DU
24
25
26
27
28 UNITED STATES DISTRICT JUDGE